

United States District Court
Eastern District of California

Larry Giraldes,

Plaintiff,

vs.

Prebula, et al.,

Defendants.

No. Civ. S 01-2110 LKK PAN P

Order

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Plaintiff is state prisoner without counsel. In first-amended complaint plaintiff alleges defendant Sauhkla, upon instruction from defendants Prebula and Gavia, drafted a memorandum authorizing plaintiff's transfer from California Medical Facility (CMF) to High Desert State Prison (HDSP) and Dr. Andreasen approved the transfer knowing HDSP could not provide adequate medical care for his severe digestive problems, Hepatitis C and knee problems. Plaintiff has filed a motion to amend or to supplement his complaint with evidence he has

1 received inadequate medical care at HDSP.

2 In an amended complaint a party may replead or add facts or
3 claims arising prior to or contemporaneously with the allegations
4 of the original complaint. See United States v. Hicks, 283 F.3d
5 380, 385 (D.C. Cir. 2002); Flaherty v. Lang, 199 F.3d 607, 613
6 n. 3 (2d. Cir. 1999). In a supplemental pleading a party may
7 allege "transactions or occurrences or events which have happened
8 since the date of the pleading sought to be supplemented." Fed.
9 R. Civ. P. 15(d).

10 The supplemental complaint alleges that September 27, 2005,
11 a gastro-intestinal specialist recommended plaintiff be
12 transferred to a medical facility if he cannot receive six small
13 meals daily and 30 mg of Prevacid twice daily. This allegation
14 does not support plaintiff's claims against defendants.

15 Accordingly, plaintiff's November 1, 2005, motion is denied.

16 So ordered.

17 Dated: January 24, 2006.

18 /s/ Peter A. Nowinski

19 PETER A. NOWINSKI

20 Magistrate Judge
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